

REMARKS

By the foregoing amendments the substitute specification has been amended on page 1 to update the status of the related applications referred to therein and an abstract on a separate sheet has been added to the Substitute Specification. Claims 17, 25 and 28 have been amended by the above amendments and new dependent claim 31 has been added. Thus, claims 1-31 are in the application with claims 1-16, 24 and 29 being withdrawn from consideration as directed to a non-elected group/invention and species.

The disclosure was objected to in the Office Action because of informalities. Specifically, Applicant was required to update the status of the related applications referred to in the specification. This has been done by the above amendments. An abstract of the disclosure on a separate sheet was also required. The necessary abstract has been filed herewith on a separate sheet.

Claim 28 was objected to in the Office Action because of a misspelling therein as noted in paragraph number 6 on page 3 of the Office Action. Responsive to the objection, by the above amendments claim 28 has been amended to correct the informality.

The application Declaration was indicated to be defective in the outstanding Office Action because of a mistake in the reference number of the related PCT international application number. Responsive to the requirement, a new Declaration is enclosed herewith with a correct reference to the related PCT international application.

Claims 17-20, 25, 26, 28 and 30 were rejected in the Office Action under 35 U.S.C. § 102(b) as being clearly anticipated by Atkinson, et al., U.S. 2002/0087216 A1 as stated on pages 3 and 4 of the Office Action.

Claims 17-23, 23-25 and 30 were rejected in the Office Action under 35 U.S.C. §102(b) as being clearly anticipated by the patent to Fikes, U.S. 4,911,724, as stated on page 5 of the Office Action.

Claims 17-23, 25-28 and 30 have been rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Phillips, U.S. 5,387,246, as stated on pages 6 and 7 of the Office Action.

These rejections are hereby traversed and reconsideration thereof is respectfully requested in view of the above amendments to the claims and the remarks set forth below.

The improved resilient lower extremity prosthesis of the present invention as recited in claim 17 as amended now specifically recites that the shank extends upward in a substantially anterior facing convexly curvilinear manner above the ankle, the ankle being anterior facing convexly curved and having a lower portion with a posterior terminal end. These features of the present invention clearly distinguish the resilient lower extremity prosthesis of the invention from the applied references. In Atkinson, et al., the shank above the ankle is reversely curved into a posterior facing convexly curved member. Phillips is posterior facing convexly curved. Fikes does not have an ankle with a posterior terminal end with a substantially anterior facing convexly curvilinear shank. In view of the fundamental differences, it is respectfully submitted that the application claims as amended are not anticipated, 35 U.S.C. § 102, or rendered obvious, 35 U.S.C. § 103, from the cited references.

New dependent claim 31 is further distinguished from the cited references in reciting that the artificial muscle is formed at least in part of an

electroactive polymer-based artificial muscle. Support for this feature is found in the first full paragraph on page 35 of the Substitute Specification. The use of such an active artificial muscle is not taught by the cited references.

In view of the above amendments and remarks as well as the new Declaration filed herewith, it is respectfully submitted that the application is in condition for allowance with claims directed to the elected invention.

Dependent claims 24 and 29, while non-elected, are dependent from claim 17 and believed properly allowable in the present application. Reconsideration and allowance of these claims is respectfully requested.

A Petition for Extension of Time is filed herewith to permit the timely filing of this amendment within the second month extension of time.

Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (Case No. 183.43731AX0) and please credit any excess fees to such deposit account.

Respectfully submitted,

/Ronald J. Shore/  
Ronald J. Shore  
Registration No. 28,577  
ANTONELLI, TERRY, STOUT & KRAUS, LLP

RJS/kmh

Attachments: Declaration  
Abstract